UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,653	12/20/2001	James M. Vignoles	NAI1P048/01.183.01	2731

28875 7590 01/18/2006		EXAMINER
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SAN JOSE, CA 95172-1120	ART UNIT	PAPER NUMBER
	2137	

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/028,653	VIGNOLES ET AL.
	Examiner	Art Unit	
	Michael Pyzocha	2137	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *12 December 2005*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-5,7,9-16,18,20-23,26 and 28-33* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-5,7,9-16,18,20-23,26 and 28-33* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some * c) ☐ None of:

       1. ☐ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____.

       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-5, 7, 9-16, 18, 20-23, 26, 28-33 are pending.

2.   Amendment filed 12/12/2005 has been received and considered.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine,
> manufacture, or composition of matter, or any new and useful improvement
> thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

Claims 12-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The above claims relate merely to abstract ideas that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. These claims merely relate to computer code which is not statutory un 35 USC 101.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

5.   Claims 1–5,7, 9, 12-16, 18, 20, 23, 26, 29, and 33 are

rejected under 35 U.S.C. 103(a) as being unpatentable over

ConSeal PC FIREWALL Technical Summary (hereinafter ConSeal) and

in view of Hari et al (Detecting and resolving packet filter

conflicts).

As per claims 1, 12, 23, 26 and 29, ConSeal discloses

identifying a set of policies, each policy having a condition

associated therewith; determining whether the conditions are

met; and activating the policies whose associated conditions are

determined to be met (see pages 1-2) wherein the activation of

the policies includes adding the policies to a set of a

plurality of active policies, and executing security actions

associated with the active policies if associated limits are met

(see pages 1-2).

ConSeal fails to disclose the conditions represent

different policies, which are based on priority and determining

and resolving any conflicts.

However, Hari et al teaches such policy priorities and

conflict resolution (see page 1204 section II).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Hari et al's priorities and conflict resolution in the firewall system of ConSeal.

Motivation to do so would have been to avoid matching multiple filters with confliction actions (see Hari et al page 1204 section II).

As per claims 2-3 and 13-14, the modified ConSeal and Hari et al system discloses activating the policies if the user confirms (see ConSeal page 2).

As per claims 4-5 and 15-16, the modified ConSeal and Hari et al system discloses updating includes receiving another inactive policy, determining whether the user accepts the inactive policy, and adding the inactive policy to the set if the user accepts the inactive policy (see ConSeal page 2).

As per claims 7 and 18, the modified ConSeal and Hari et al system discloses determining whether the conditions associated with the active policies are still met, and de-activating the active policies if the associated conditions are not met (see bottom of page 1 to the top of page 2).

As per claims 9 and 20, the modified ConSeal and Hari et al system discloses the conditions include a time factor (see page

2 where "when a specific application is running" is a time factor).

As per claim 33, the modified ConSeal and Hari et al system discloses the identifying, determining and activating are controlled locally (see ConSeal page 1).

6.   Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal and Hari et al system as applied to claims 1 and 12 above, and further in view of Beebe et al (US 200100141150).

As per claims 10 and 21, the modified ConSeal and Hari et al system fail to disclose the conditions include a source of the policies

However Beebe et al teaches such condition (see paragraph 227).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to

Motivation to do so would have been to implement a multi-tiered policy (see paragraph 226).

7.   Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal and Hari et al system as applied to claims 1 and 12 above, and further in view of Porras et al (US 6704874).

As per claims 11 and 22, the modified ConSeal and Hari et al system fails to disclose the conditions include a severity of the security actions associated with the policies.

However, Porras et al teaches such a prioritization technique (see column 2 lines 46-51 where a more severe of the attack requires a more severe action).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Porras et al's prioritization teaching in the modified firewall system of ConSeal and Hari et al.

Motivation to do so would have been to allow for a tag to be included to relate the severity.

8.   Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal and Hari et al system as applied to claim 1 above, and further in view of Brock et al (US 20030110393).

As per claim 28, the modified ConSeal and Hari et al system fails to disclose the conditions represent an urgency associated with an issue causing the policy to be activated.

However, Brock et al teaches such a priority based on urgency (see paragraph 5).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Brock et al's

teaching of urgency based priority in the modified firewall

system of ConSeal and Hari et al.

Motivation to do so would have been to alert the network

administrator.

9.   Claims 30-32 are rejected under 35 U.S.C. 103(a) as being

unpatentable over the modified ConSeal and Hari et al system as

applied to claim 1 above, and further in view of Cisco (IPSec

User Guide for the Cisco Secure PIX Firewall Version 5.2).

As per claims 30-32, the modified ConSeal and Hari et al

system fails to disclose three policies with different

priorities having different valid time periods.

However Cisco teaches such polices (see "Enabling and

Configuring IKE" pages 6-1 and 6-2).

At the time of the invention it would have been obvious to

a person of ordinary skill in the art to use the policies of

Cisco in the modified ConSeal and Hari et al system.

Motivation to do so would have been to allow the firewall

to use Internet Key Exchange (see top of page 6-1).

Response to Arguments

10.   Applicant's arguments with respect to claims 1, 12, 23 and

28 have been considered but are moot in view of the new

ground(s) of rejection.

11. Applicant's arguments filed 12/12/2005 have been fully considered but they are not persuasive. Applicant argues ConSeal fails to teach activation includes adding to the set; the conditions include a time factor; and Beebe fails to teach activating the policies based on a source of the policies.

With respect to Applicant's argument that ConSeal fails to teach activation includes adding to the set, when ConSeal activates a rule to be enforced, it because an active rule with the group of other active rules and it is therefore added to the set of active rules because, in this context, a set is simply a group.

With respect to Applicant's argument that ConSeal fails to teach the conditions include a time factor, Applicant quoted a section of ConSeal, however, Applicant did not include the word "when" which implies time and therefore, "when a specific application is running" or "when dialing a specific phone number", from page 2 of ConSeal, are both time factors.

With respect to Applicant's argument towards Beebe one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER